

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHARICE C. VANN,

Defendant.

Case No. 06-cr-40029 -JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Defendant Sharice C. Vann's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 302). For the following reasons, the Court **DENIES** Vann's Motion.

**BACKGROUND**

This Court entered Judgment against Sharice Vann (Vann) in the above styled criminal case on April 17, 2007. Forty days later, on June 22, 2007 Vann filed a Notice of Appeal. The United States Court of Appeals for the Seventh Circuit dismissed her appeal as untimely August 20, 2007. Vann has indicated that she will file a motion under 28 U.S.C. § 2255 alleging ineffective assistance of counsel. Vann filed the instant motion as part of her criminal case.

**ANALYSIS**

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith or not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker*

*v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

The Court is satisfied from Vann's affidavit that she is indigent. However, the Court cannot grant Vann's motion at this time. First, the Court notes that there is no fee to file a § 2255 motion, so Vann has no need of pauper status for that purpose. Second, the Court will not authorize pauper status for free transcripts unless the defendant can demonstrate that her suit is not frivolous and that the transcript is needed to decide an issue presented by the suit. *See* 28 U.S.C. § 753(f). Since Vann has not yet filed a § 2255 motion, the Court cannot determine whether she can satisfy this standard. Third, should Vann seek pauper status in connection with a § 2255 motion, she must file her motion for leave to proceed *in forma pauperis* in that case, not in her criminal case. For these reasons, the Court **DENIES** the motion for leave to proceed *in forma pauperis* (Doc. 302) **without prejudice** to refiling another properly supported motion in a § 2255 proceeding

**IT IS SO ORDERED.**

**DATED: September 26, 2007**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**